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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,040	10/02/2001	Yasushi Takeda	100809-16276 (SCEY 19.027	8691
26304	7590	08/13/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			ONEILL, MICHAEL W	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/970,040	Applicant(s) TAKEDA ET AL.	
	Examiner Michael O'Neill	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on RCE 5-10-4
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims 1-40

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-40 is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) 1-40 is/are objected to.
- 8) ☐ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. .
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



MICHAEL O'NEILL
PRIMARY EXAMINER

Attachment(s)

- | | |
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| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6-8-4</u></p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u> </u></p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: <u> </u></p> |
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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

The rejection of claims 1, 14, 27 and 40 under 35 U.S.C. 102(b) as being anticipated by Nimura '823 is maintained and incorporated herein.

Claim Rejections - 35 USC § 103

The rejection of claims 1-40 under 35 U.S.C. 103(a) as being unpatentable over Horigami et al. '599 is maintained and incorporated herein.

Claims 1, 14, 27 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-306389 in view of Notification of Reason(s) for Refusal.

D1 in the reference equates to the first character in the virtual space. D2 in the reference equates to the shadow character which is a projection of the first character because of a virtual light source. As stated in the Reason(s) for Refusal one of ordinary skill in the art at the time the invention was created would consider the controlling of the shadow character independently of the first character and the virtual light source as an obvious graphic processing technique and not an invention in the terms of 103. One of ordinary skill

Art Unit: 3713

in the art is quite familiar with the software packages that allow those skilled in the art to manipulate the data to generate images. Basically, what the claimed invention is claiming are two images with each image being independent of the other. One skilled in the art could easily generate such independence when writing the software code need to generate the images. In fact it would be easier for one skilled in the art to write the code so that the two images are independent because the artisan would not have to worry about and conflicts between the two sets of code for it would run independently of the other.

Response to Arguments

Applicant's arguments filed 5-10-04 have been fully considered but they are not persuasive.

First, the instant Examiner wishes to inform the Applicant that there is no record in the file wrapper of the Applicant discussing the merits of this application with the previous Examiner or the Supervisor. Would the Applicant kindly include the copy of the Interview Summary that the Applicant would have received had a discussion on the merits of this case had taken place so the instant Examiner can evaluate the information contained thereon and supplement the file wrapper.

Art Unit: 3713

Second, the instant Examiner without more does not see an invention as defined by the Patent Statutes in the present claims. The instant Examiner is of the same opinion as the JPO Examiner with respect to the claim limitation of controlling the shadow character independently of the first character: such "controlling" is a mere graphic processing production that is easily written into the software used to generate the graphics and thus not an inventive step, but merely a game software production idea/technique easily generated by one of ordinary skill in the art at the time the invention was created.

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

Art Unit: 3713

action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 703-308-3484. The examiner can normally be reached on Monday through Friday 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks, Acting SPE can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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